

## **CHAPTER 54-27 FISCAL ADMINISTRATION**

**54-27-01. Fiscal year - Reports - When made.** The fiscal year for the state of North Dakota commences on the first day of July and ends on the thirtieth day of June of the following year. All reports required annually or biennially of any state officer or from any private corporation or limited liability company, unless otherwise provided, must be made to and must include the thirtieth day of June preceding. All accounts of such officers must be closed and balanced to that date.

**54-27-02. County treasurers must remit state funds collected or in their hands.** All funds collected by or in the hands of the treasurer of any county in this state must be remitted promptly by the county treasurer in the manner provided by law, without expense to the state, and at the risk of the county treasurer. The county treasurer must be allowed actual expenses by the board of county commissioners.

**54-27-03. County auditors to furnish office of management and budget with abstract of tax list.** Repealed by S.L. 1991, ch. 658, § 2.

**54-27-04. County treasurers to transmit state taxes.** The county treasurer, as an agent of the state, shall, on or before the fifteenth of each month, transmit in full to the state treasurer all state taxes collected in the previous month together with a report thereon. The original report must be forwarded with the remittance to the state treasurer.

The state treasurer shall furnish a receipt to the county treasurer for the funds received, send a duplicate of the receipt to the county auditor, and cover the amounts to the state taxes distribution fund.

The director of the office of management and budget, on or before the last day of same month shall, by drawing appropriate warrants on the state taxes distribution fund, transfer the funds to the general fund and other funds in accordance with the purposes for which the taxes were levied and collected.

**54-27-05. Office of management and budget to deliver to state treasurer order on county treasurer for taxes collected.** Repealed by S.L. 1967, ch. 390, § 2.

**54-27-06. State treasurer to notify county treasurer of amount due state for taxes collected.** Repealed by S.L. 1967, ch. 390, § 2.

**54-27-07. Apportionment of moneys belonging to counties - How made.** The apportionment of all moneys paid into the state treasury, any part of which is required by law to be paid to the several counties or to political subdivisions, must be made by the office of management and budget and state treasurer. The office of management and budget and state treasurer shall keep an account with each county or political subdivision, crediting it with all such apportionments and charging it with all sums paid to it. The office of management and budget shall draw an order on the state treasurer for the amount so credited, and shall forward the same to the county treasurer of such county or the clerk or auditor of such political subdivision, and at the same time shall send a written notice to the county auditor or the clerk or auditor of the political subdivision stating the amount so apportioned.

**54-27-08. How moneys paid from state treasury - Warrants - When not necessary.** Except as otherwise provided, moneys may be paid from the state treasury only upon the warrant or order prepared by the office of management and budget drawn on the state treasurer. The director of the office of management and budget shall recommend a form for order and warrant-check of the state government which must conform, so far as consistent with statutory requirements, to approved banking practice to facilitate handling of such instruments by banks and other depositories. When an order and warrant-check is signed by the state auditor, the state treasurer shall accept the order or warrant with the treasurer's signature, making the order

and warrant-check negotiable. No warrant upon the treasurer may be delivered or mailed to the payee or the payee's agent or representative until the warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository. A record must be maintained specifying upon what fund or from what apportionment each warrant is to be paid. The state treasurer may redeem outstanding bonds or pay interest on bonds when due without the warrant of the office of management and budget, retaining the bond or interest coupon as a voucher for the payment until the next settlement. With respect to electronic records and electronic signatures, the state treasurer shall utilize the services provided by the information technology department.

**54-27-09. Office of management and budget to cancel unexpended appropriations - When they may continue.** Repealed by S.L. 1965, ch. 358, § 20.

**54-27-09.1. Standing and continuing appropriations.** Repealed by omission from this code.

**54-27-09.2. Appropriations for certain buildings and improvements not to revert if unused.** Repealed by omission from this code.

**54-27-10. Appropriations - When available.** Unless otherwise authorized as provided in this section, seventy-five percent of the appropriations made by the legislative assembly for the line items of salaries and wages and operating expenses for any state institution, department, board, commission, or bureau in the executive branch of state government for the biennium, except institutions under the jurisdiction and supervision of the state board of higher education, shall become available on the first day of July next succeeding the enactment by the legislative assembly. The remaining twenty-five percent of any such appropriations shall be available only at the beginning of the fourth quarter of the biennium. No state institution, department, board, commission, or bureau in the executive branch of government for which an appropriation for salaries and wages and operating expenses is made may disburse more than seventy-five percent of such appropriation during the first eighteen months of the biennium nor incur any expense or liability which shall be discharged from such appropriation or for which such appropriation shall become available. Whenever it is made to appear to the emergency commission by a verified petition submitted by a state institution, department, board, commission, or bureau in the executive branch of state government that the percentage of the appropriation for operating expenses allocated for the first three-quarters of the biennium will not be adequate to properly perform its duties and functions, because of seasonal or other unusual circumstances, it may authorize a revision of the allocated percentage in any such items, except salaries and wages, provided it will not deprive such state institution, department, board, commission, or bureau from maintaining its office for the fourth quarter of the biennium.

**54-27-11. Appropriation - Record kept by office of management and budget and treasurer - Duties and limitations.** The office of management and budget and state treasurer each shall keep a record in their offices showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof.
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof.
3. The amount expended and the balance on hand. The term expended includes amounts which are payable for which funds have not yet been disbursed.

The office of management and budget may not allow any expenditure or issue any warrant during the first eighteen months of each biennium in excess of seventy-five percent of any item appropriated for salaries and wages and operating expenses for any state official or state agency in the executive branch of government nor may the state treasurer pay such warrant. The duties and limitations imposed upon the office of management and budget and state treasurer apply only to the total amount appropriated for salaries and wages and operating expenses for the

biennium but not to separate amounts appropriated for those line items, for all penal and charitable institutions of this state and all institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for salaries and wages and operating expenses for all such institutions under its control and is responsible for the enforcement of the restrictions upon the expenditure of all moneys appropriated to such institutions for such purposes.

**54-27-12. Expenditure of amount in excess of appropriation for state institutions - Unlawful.** The administrative department, office, or board of any penal or charitable state institution, or the state board of higher education, or any person thereof, in the transaction of the business of any state institution under its direction or control, may not make nor authorize knowingly any expenditure in the matter of the erection or improvement of any public building or structure, or the purchase of any real property, in excess of any appropriation made by the legislative assembly for such purpose. The president, superintendent, or managing officer of any state institution conducted under the direction or control of any department, office, or board, or the state board of higher education may not connive nor conspire knowingly with such departments, offices, or boards, nor with any member thereof, to procure to be expended in the matter of the erection or improvement of any public building or structure, or the purchase of any real property at the state institution of which the person is president, superintendent, or managing officer, any sum in excess of the appropriation therefor as made by the legislative assembly.

**54-27-13. Penalty for expenditure in excess of appropriation for state institutions.** Any person violating the provisions of section 54-27-12 is guilty of a class B misdemeanor, and is, upon conviction, subject to summary removal from office by the governor, except elected officials who shall be subject to impeachment.

**54-27-14. Cancellation of outstanding warrants.** Repealed by S.L. 1989, ch. 649, § 2.

**54-27-15. Procedure when canceled warrant presented for payment.** Repealed by S.L. 1989, ch. 649, § 2.

**54-27-15.1. State treasurer's checks, warrants, and warrant-checks - Cancellation - Deposit to common schools trust fund - Subsequent payment - Continuing appropriation.** The state treasurer, at the beginning of each fiscal year, shall prepare a list of the checks, warrants, and warrant-checks drawn on various depositories which are more than three years old which remain outstanding and unpaid and shall show the number, date, payee (with address of payee if available), amount, and fund (if available) against which said instrument was drawn. A copy of such list must then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the common schools trust fund pursuant to chapter 47-30.1. One copy of such receipt with list of instruments affected must be provided to the administrator of unclaimed properties. In the event such check, warrant, or warrant-check is at any subsequent time presented for payment, or a claim is made by any person for the amount of any such instrument, further proceedings must be conducted in accordance with chapter 47-30.1. These expenditures are hereby subject to a standing and continuing appropriation.

**54-27-15.2. Subsequent payment.** Repealed by S.L. 1959, ch. 372, § 117.

**54-27-15.3. Checks of the state department of health and consolidated laboratories - Cancellation - Deposit to general fund.** Repealed by S.L. 1989, ch. 649, § 2.

**54-27-15.4. Subsequent payment.** Repealed by S.L. 1989, ch. 649, § 2.

**54-27-16. Permission of industrial commission necessary for investment of public funds.** No officer, nor the head of any board, bureau, commission, institution, or industry of the state, except the Bank of North Dakota, may buy, sell, exchange, or in any manner acquire or dispose of any stocks, bonds, certificates of indebtedness, notes, mortgages, or other evidence of debt, in which any of the public funds of said officer, board, bureau, commission, institution,

department, or industry are or may be invested, without first having obtained permission from the industrial commission of the state. Such permission must be granted by a resolution duly adopted. The provisions of this section do not apply to loans and investments made by the board of university and school lands or by the state investment board on behalf of the funds enumerated in section 21-10-06.

**54-27-17. Penalty for investment of public funds without consent of industrial commission.** Any officer, or the head of any board, bureau, commission, department, institution, or industry of the state violating any of the provisions of section 54-27-16, is guilty of a class B misdemeanor.

**54-27-18. State a preferred creditor.** The state is a preferred creditor in all cases of payments due to the state under any contracts.

**54-27-19. Highway tax distribution fund - State treasurer to make allocation to state, counties, and cities.** A highway tax distribution fund is created as a special fund in the state treasury into which must be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. Any moneys in the highway tax distribution fund must be allocated and transferred monthly by the state treasurer, as follows:

1. Sixty-three percent of such moneys must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Thirty-seven percent of such moneys must be allocated to the counties of this state in proportion to the number of motor vehicle registrations credited to each county. Each county must be credited with the certificates of title of all motor vehicles registered by residents of such county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formula in this subsection on the basis of the per capita population of all of the incorporated cities situated within each county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census. Provided, however, that in each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
  - a. A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
  - b. The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under subdivision a.
  - c. The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under subdivision a.

- d. The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under subdivisions b and c for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under subdivision a and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.

The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota; provided, that any incorporated city may use such fund for the construction, reconstruction, repair, and maintenance of public highways within or outside such city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

**54-27-19.1. Township highway aid fund - Distribution.** Notwithstanding any other provision of law, one cent per gallon [3.79 liters] of the tax imposed by sections 57-43.1-02 and 57-43.2-02 may not be refunded and the proceeds must be distributed as provided in this section. The tax commissioner shall transfer the proceeds of one cent per gallon [3.79 liters] of the tax imposed by sections 57-43.1-02 and 57-43.2-02 to the state treasurer who shall deposit the proceeds in a township highway aid fund in the state treasury. The state treasurer shall no less than quarterly allocate and distribute all moneys in the township highway aid fund to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds under this section, organized townships shall provide fifty percent matching funds. The county treasurer shall allocate the funds received to the organized townships in the county which provide fifty percent matching funds based on the length of township roads in each such organized township compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county has no organized townships, or has some organized and some unorganized townships, the county shall retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county. Moneys retained by a county for the benefit of unorganized townships under this section must be deposited in the county road and bridge fund. Moneys retained by the county treasurer due to the failure of organized townships to provide required matching funds must be returned to the state treasurer who shall deposit the funds in the highway tax distribution fund. The board of county commissioners shall certify to the state treasurer any change in township road mileage when a change occurs and shall, by July first of each even-numbered year, certify the total number of township road mileage in each of the county's organized and unorganized townships. The state treasurer shall prescribe the form and manner by which the certification is made.

**54-27-19.2. Reporting of number of motor vehicles registered on Indian reservations - Use for determining each county's share of highway tax distribution fund.** Before the tenth day of each month, each governing body of an Indian reservation having a motor vehicle registration ordinance may report the number of motor vehicles registered on the reservation to the director of the department of transportation. The director of the department of transportation shall multiply the number of motor vehicles reported by a factor that represents the portion of funds in the highway tax distribution fund derived from taxes on motor fuels and other special fuels during the most recent fiscal year. The director of the department of transportation shall report the resulting product to the state treasurer for incorporation into the county distribution formula in subsection 2 of section 54-27-19 as follows:

1. Where the boundaries of the Indian reservation do not encompass more than one county, the director of the department of transportation shall credit the total product to that county.
2. Where the boundaries of the Indian reservation encompass more than one county, the director of the department of transportation shall allocate the product to each

county containing a portion of the Indian reservation in the ratio of the number of reservation registered motor vehicles in that county to the total of reservation registered motor vehicles in all the counties containing a portion of that Indian reservation. If the number of reservation registered motor vehicles in a county containing a portion of an Indian reservation is not available, the director of the department of transportation shall allocate the product to each county containing a portion of an Indian reservation in the ratio of the number of miles of county roads, as designated under section 24-05-16, within the county on the reservation to the total of the number of miles of county roads on the reservation.

**54-27-20. Revenue sharing trust fund.** A revenue sharing trust fund is hereby created in the state treasury for deposit of all payments received by the state under the Fiscal Assistance to State and Local Governments Act (federal-state revenue sharing) [Pub. L. 92-512; 86 Stat. 919] and acts amendatory thereto. Interest earned on these deposits must be deposited in the trust fund and disbursed in accordance with federal and state law. Moneys in the trust fund must be disbursed as authorized by legislative appropriations and federal and state law upon vouchers prepared by the director of the office of management and budget.

**54-27-20.1. State revenue sharing.** Repealed by S.L. 1987, ch. 35, § 5.

**54-27-20.2. State revenue sharing distribution formula.** Repealed by S.L. 1997, ch. 19, § 3.

**54-27-20.3. Disbursement of local funds - Reports.** Repealed by S.L. 1997, ch. 19, § 3.

**54-27-21. Fixed asset minimum reporting value.** All state departments, agencies, boards, bureaus, commissions, industries, and institutions shall include all fixed assets under their control in their financial statements, except those having a value of five thousand dollars or less. The state auditor is authorized to provide for the written exemption of specific fixed assets having a value of more than five thousand dollars when an exemption is justified upon generally accepted accounting principles.

**54-27-21.1. Documentation of asset acquisitions.** Any state agency or institution that acquires the use of an asset as the result of a lease arrangement shall prepare a written analysis documenting the decision to acquire the use of the asset. The agency or institution shall make the analysis available to the auditor for review during the audit for the fiscal period during which the decision was made.

**54-27-22. Revolving fund for prepayment of consulting and planning fees for capital improvements.** Funds must be made available to all state agencies, institutions, and departments from a preliminary planning revolving fund in the state treasury under the control of the director of the office of management and budget for studies, planning, architectural programming, schematic designs, and cost estimates relating to proposed new capital improvements and major remodeling of existing facilities. State agencies, institutions, and departments interested in obtaining planning moneys shall submit a written request detailing the scope and purpose of such project to the director of the office of management and budget. The director shall file such request with, and shall present the director's recommendations regarding the proposed project and necessary planning moneys to, the budget section of the legislative council. Funds may be advanced only in the event that an authorization has first been received from the budget section. Such funds advanced must be repaid to the preliminary planning revolving fund as moneys become available through legislative appropriation or other sources for the commencement of the project.

**54-27-23. Cash flow financing.** In order to effectively meet the cyclical cash flow needs of state government, the office of management and budget upon approval of the emergency commission is hereby authorized to issue certificates in anticipation of revenue, notes, or bonds, to special funds on deposit in the state treasury. Any issue of such certificates, notes, or bonds must be approved by the emergency commission and are to be used for cash flow financing only,

and not to offset projected deficits in state finances unless first approved by the budget section of the legislative council. The budget section may approve additional cash flow financing not to exceed eighty percent of estimated general fund revenues relating to sales or production occurring prior to June thirtieth, to be collected in July and August after the end of the biennium. Such additional cash flow financing is only effective for sixty days unless an extension or reapproval is received from the budget section. If a revenue shortfall of greater than five percent occurs, the office of management and budget shall order budget allotments under section 54-44.1-12 prior to approval by the budget section of such additional cash flow financing. It is the intent of the legislative assembly that all borrowing must be repaid by the end of the biennium. The terms of any specific issue of such certificates, notes, or bonds may not exceed one hundred eighty days from the date of issuance whereupon the principal and interest on the certificates, notes, or bonds must be paid in full from the state general fund or from another issue of a similar nature. All principal and interest on such issues made during a biennial period must be repaid in full at the close of the biennial period from the state general fund. When certificates, notes, or bonds are issued for cash flow purposes to funds which otherwise would be invested, with the investment income accruing to the special fund, the certificate must bear an investment rate of return which must be agreed upon by the state investment board, and must be at a level commensurate with the yield to be reasonably expected by such fund if invested in alternate securities.

**54-27-24. Paying refunds from the general fund.** Each office, agency, or institution that must deposit funds collected in the general fund shall pay refunds from the general fund.

The office of management and budget shall establish accounting requirements for paying refunds from the general fund in accordance with the central accounting system.

**54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.** There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

1. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund.
2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
3. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

Transfers to the funds under this section must be made within thirty days of receipt by the tobacco settlement trust fund.